

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

First-Class Package Service (FCPS)  
Service Standard Changes, 2021

Docket No. N2021-2

PRESIDING OFFICER'S RULING  
FURTHER ADJUSTING PROCEDURAL SCHEDULE AND PRE-HEARING FILINGS

(Issued July 26, 2021)

On June 17, 2021, the Postal Service filed a request for an advisory opinion regarding planned changes to the service standards for First-Class Package Service.<sup>1</sup> The Commission's procedural schedule reserved August 4-6, 2021 as hearing dates, assuming no rebuttal case would be filed.<sup>2</sup> The Commission further provided that if any party filed a notice of intent to file a rebuttal case, then the new reserved hearing dates would be August 11-13, 2021. Order No. 5933 at 3.

On July 23, 2021, the American Postal Workers Union filed a notice of its intent to file rebuttal testimony.<sup>3</sup> Due to the filing of rebuttal testimony, the hearings on the Postal Service's direct case will be a week later than originally scheduled, and will begin

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<sup>1</sup> United States Postal Service Request for an Advisory Opinion on Changes in the Nature of Postal Services, June 17, 2021 (Request).

<sup>2</sup> Order Modifying Procedural Schedule, July 8, 2021, at 3 (Order No. 5933) (modifying Notice and Order on the Postal Service's Request for an Advisory Opinion on Changes in the Nature of Postal Services, June 21, 2021 (Order No. 5920)).

<sup>3</sup> American Postal Workers Union, AFL-CIO Notice of Intent to File Rebuttal Testimony, July 23, 2021.

August 11, 2021.<sup>4</sup> The prehearing dates set in Order No. 5933 are now vacated due to the new hearing schedule.

Parties must now file any notices of intent to conduct oral cross-examination by August 4, 2021. The notice must include an estimate of the amount of time requested for each witness.

In addition, parties may request to present oral argument at the hearing. Accordingly, any request to present oral argument at the hearing must be filed by August 4, 2021.

In lieu of submitting hard copy documents to the Commission as contemplated by 39 CFR 3020.122(e)(2), each party shall file a single document titled “Notice of Designations” containing a list for each witness that identifies the materials to be designated (without the responses). The filing party shall arrange its list for each witness in alphabetical order by the name of the party propounding the interrogatory followed by numerical order of the interrogatory. For example:

**Designations for Witness One**

ABC/USPS-T1-1  
ABC/USPS-T1-3  
DEF/USPS-T1-1  
GHI/USPS-T1-3  
JKL/USPS-T1-2

**Designations for Witness Two**

DEF/USPS-T2-4  
GHI/USPS-T2-2

Each party shall file its Notice of Designations no later than August 5, 2021.

The Postal Service shall, on August 6, 2021, file a “Notice of Designated Materials” for each witness it has sponsored, which identifies any corrections to the testimony or designated materials. Attached to that notice shall be a single Adobe PDF

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<sup>4</sup> These dates assume that there is no surrebuttal testimony, which the Postal Service would have to request via motion and bear the burden of demonstrating exceptional circumstances that would warrant granting the motion. See 39 CFR 3020.121(b).

file that contains, in order: the witness's testimony (with any corrections highlighted); identification of any library references sponsored by the witness; and all the witness's designated written responses (with any corrections highlighted) in alphabetical order by party name and then numerical order of the request.

Rebuttal testimony must be filed by August 4, 2021. Parties who intend to conduct oral cross-examination of rebuttal witnesses shall file a Notice of Intent to Conduct Oral Rebuttal Cross-Examination not later than August 5, 2021, which shall include an estimate of the time required for each witness.<sup>5</sup> Rebuttal witnesses, if called for oral cross-examination, shall appear immediately following the oral cross-examination of the Postal Service's direct case. Written discovery (cross-examination) may be served on the parties offering rebuttal testimony immediately after filing of rebuttal testimony, and must be filed no later than August 9, 2021. Responses to those discovery requests are due no later than August 16, 2021. Parties must file a Notice of Designations, consistent with the procedure described above, should they wish to designate rebuttal case discovery responses for the record, no later than August 17, 2021. The Presiding Officer intends to issue a further ruling admitting designated materials into evidence on August 18, 2021.

Initial Briefs or Statements of Position are now due no later than August 20, 2021. Reply Briefs may be filed no later than August 27, 2021.

To facilitate the orderly proceeding of the hearing, the Presiding Officer intends to update the schedule for the hearing dates, including the order and timing of the witnesses' appearances, on August 9, 2021.

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<sup>5</sup> Consistent with 39 CFR 3020.122(e)(2), written cross-examination will be utilized as a substitute for oral cross-examination whenever possible. Given the extremely tight procedural schedule required in this case to meet the issuance target for the Commission's Advisory Opinion, parties are strongly encouraged to limit the use of oral cross-examination unless designated written discovery responses are likely to be inadequate.

## RULING

*It is ordered:*

1. The modified procedural schedule for this proceeding is set forth below the signature of this Ruling.
2. The Secretary shall arrange for publication of this Ruling in the *Federal Register*.

Ann C. Fisher  
Presiding Officer

**Procedural Schedule for Docket No. N2021-2**

(Modified by the Presiding Officer, July 26, 2021)

**Deadlines in Preparation for Hearing:**

Filing of Notice Confirming Intent to Conduct Oral Cross-Examination	August 4, 2021
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Filing of Request to Present Oral Argument	August 4, 2021
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Filing of Notice of Designations	August 5, 2021
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Filing of Notices of Designated Materials	August 6, 2021
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**Rebuttal Case Deadlines:**

Filing of Rebuttal Cases	August 4, 2021
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Filing of Notice Confirming Intent to Conduct Oral Rebuttal Cross-Examination	August 5, 2021
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Close of Discovery on Rebuttal Cases	August 9, 2021
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Rebuttal Cases Discovery Responses Due	August 16, 2021
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Filing of Notice of Designations on Rebuttal Discovery Responses	August 17, 2021
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**Surrebuttal Case Deadlines (if applicable):**

Filing of Motion for Leave to File Surrebuttal Case	August 6, 2021
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Filing of Response to Motion for Leave to File Surrebuttal Case	August 10, 2021
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Filing of Surrebuttal Case (if authorized)	August 11, 2021
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**Hearing Dates:**

Hearings (with Rebuttal Case, but no authorized Surrebuttal Case)	August 11-13, 2021
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Hearings (with Rebuttal Case and authorized Surrebuttal Case)	August 18-20, 2021
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**Briefing Deadlines:**

Filing of Initial Briefs	August 20, 2021
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Filing of Reply Briefs	August 27, 2021
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**Advisory Opinion Deadline:**

Filing of Advisory Opinion (absent determination of good cause for extension)	September 29, 2021
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